

Regular Session, 2010

SENATE BILL NO. 377

BY SENATOR MORRELL

EVIDENCE. Provides for the burden of proof to introduce evidence under the "forfeiture of wrongdoing" exception to hearsay. (8/15/10)

AN ACT

To amend and reenact Code of Evidence Art. 804(B)(7), relative to hearsay exceptions; to provide for the burden of proof to introduce evidence; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Evidence Art. 804(B)(7) is hereby amended and reenacted to read as follows:

Art. 804. Hearsay exceptions; declarant unavailable

* * *

B. Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

* * *

(7) (a) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

(b) A party seeking to introduce statements under the forfeiture by wrongdoing hearsay exception shall establish that the party against whom the

1 **statement is offered, engaged in, or acquiesced to wrongdoing by a**
2 **preponderance of the evidence.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michael Bell.

DIGEST

Present law provides for the hearsay exception under the forfeiture by wrongdoing.

Proposed law maintains present law and provides for the party seeking to introduce statements under the forfeiture by wrongdoing hearsay exception will establish that the statement is offered, engaged in, or acquiesced to wrongdoing by a preponderance of the evidence.

Effective August 15, 2010.

(Amends C.E. Art. 804(B)(7))